

## **§ 780.10**

§ 780.3 of this part. The Secretary of Energy shall further designate one member as the chairman. The Board may be appointed to hear cases on an ad hoc basis, or on other such term of service deemed appropriate by the Secretary. All proceedings shall be conducted pursuant to rules of procedure provided by the Board.

[77 FR 4887, Feb. 1, 2012]

### **§ 780.10 Decision of the Board.**

The decision of the Board in any proceeding under this part shall constitute the final action of the Department on the matter.

### **§ 780.11 Records of the Board.**

The records of the Board in cases filed before it, including the pleadings, the transcript, and the final decision, shall be open to public inspection, except to the extent that such records or portions thereof are withheld from disclosure by the Board pursuant to 10 CFR part 1004.

## **Subpart B—Declaring Patents Affected With the Public Interest Under Section 153a of the Atomic Energy Act of 1954**

### **§ 780.20 Initiation of proceeding.**

When any person in the Department believes that the Department should declare a patent affected with the public interest pursuant to section 153a of the Act, that person shall make such a recommendation to the Under Secretary. If, after consultation with the General Counsel, the Under Secretary agrees with the recommendation, the Under Secretary shall initiate in writing a proceeding under section 153a before the Board. The communication of the Under Secretary to the Board shall identify the patent and state the basis for the proposed declaration.

### **§ 780.21 Notice.**

The Board will serve upon the patent owner and all other parties a written notice of the Department's proposed action to declare the patent affected with the public interest, and the notice shall identify the patent and state the basis for the proposed declaration.

## **10 CFR Ch. III (1–1–14 Edition)**

### **§ 780.22 Opposition, support and request for hearing.**

(a) Any party may, within thirty (30) days after service of the notice or such other time as may be provided by the terms of the notice, file with the Board a written statement in opposition to or in support of the Department's proposed action. Such statement may also include a request for hearing. The statement shall contain a concise description of the facts, law, or any other relevant matter which the party believes should be reviewed by the Board during its consideration of the proposed declaration. If the request for a hearing is timely received, the Board shall call a hearing and provide notice of the time and place to all parties.

(b) Failure of all parties to oppose the proposed action or to request a hearing within the time specified in the notice shall be deemed an acquiescence to that action and may result in a declaration by the Board that the patent is affected with the public interest.

### **§ 780.23 Hearing and decision.**

If a timely request for a hearing is made by any party, the Board will proceed with a hearing and decision. If a hearing is not requested, the Board shall prepare and issue its decision on the record.

### **§ 780.24 Criteria for declaring a patent affected with the public interest.**

A patent shall be declared to be affected with the public interest pursuant to section 153a of the Act upon the Board's final decision that:

(a) The invention or discovery covered by the patent is of primary importance in the production or utilization of special nuclear material or atomic energy; and

(b) The licensing of such invention or discovery under section 153 of the Act is of primary importance to effectuate the policies and purposes of the Act.